

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

BORIS POGIL,

Plaintiff,

v.

KPMG, LLP; ANDREW J. ZIEGLER;
SCOTT M. MASAITIS; TONYA
CHRISTIANSON; DAVID LIN; LENA
HAIDYSH; LARA CZERWINSKI,

Defendants.

Case No.: 1:21-cv-01528-JPO

Civil Action

ORAL ARGUMENT REQUESTED

Electronically Filed

**DEFENDANTS' NOTICE OF MOTION FOR PARTIAL DISMISSAL OF PLAINTIFF'S
COMPLAINT WITH PREJUDICE PURSUANT TO FED. R. CIV. P. 12(b)(6) AND
FOR PARTIAL SUMMARY JUDGMENT PURSUANT TO FED. R. CIV. P. 56**

PLEASE TAKE NOTICE that Defendants, KPMG, LLP, Andrew J. Ziegler, Scott M. Masaitis, Tonya Christianson, David Lin, Lena Haidysh, and Lara Czerwinski (collectively, "Defendants"), by and through their undersigned counsel, will move before this Court, the Honorable J. Paul Oetken, United States District Judge, in the United States District Court for the Southern District of New York, Thurgood Marshall United States Courthouse, 40 Foley Square, Courtroom 706, New York, New York 10007, on a date and time to be designated by the Court, for an Order dismissing the First, Fourth, Sixth, and Seventh Causes of Action in Plaintiff's Complaint with prejudice pursuant to Federal Rule of Civil Procedure 12(b)(6), and dismissing the Fair Labor Standards Act claim in the Fifth Cause of Action in Plaintiff's Complaint with prejudice pursuant to Federal Rule of Civil Procedure 56.

PLEASE TAKE FURTHER NOTICE that, in support of this Motion, Defendants submit the accompanying Memorandum of Law, Declaration of Justine L. Abrams, Esq., with Exhibit A, and Declaration of Molly Bede, which are incorporated herein by reference.

PLEASE TAKE FURTHER NOTICE that a proposed form of Order is submitted herewith.

PLEASE TAKE FURTHER NOTICE that Defendants request oral argument.

Dated: Morristown, New Jersey
February 26, 2021

Respectfully submitted,

**OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, P.C.**

By: /s/ Justine L. Abrams
Justine L. Abrams, Esq. (5365465)
Peter O. Hughes, Esq. (pro hac vice to be
filed)
10 Madison Avenue
Morristown, New Jersey 07960
Tel: 973-385-1823
Fax: 973-656-1611
Justine.abrams@ogletree.com
Peter.hughes@ogletree.com

*Attorneys for Defendants,
KPMG, LLP, Andrew J. Ziegler, Scott M.
Masaitis, Tonya Christianson, David Lin,
Lena Haidysh, and Lara Czerwinski*

46057067.1